

GOLDSMITH & GUYMON, P.C.

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:) BK-S 14-10694 ABL
Haydee Jorge,) Chapter 7

Debtor.

Sushil Prabakaran,

Plaintiff

Adv. No.14-01080-ABL

vs.

Haydee Jorge,

Defendant.

HEARING DATE: DECEMBER 17, 2014
HEARING TIME: 9:30 A.M.

**MOTION FOR SANCTIONS FOR WILLFUL VIOLATION OF THE AUTOMATIC STAY AND
FOR ATTORNEYS FEES**

Haydee Jorge (the "Debtor"), by and through her attorney Marjorie Guymon, Esq. of Goldsmith & Guymon, P.C., hereby moves this Court for an order holding Sushil Prabakaran ("Prabakaran"), his attorney, Nadin Cutter ("Cutter"), and the Law Offices of Cutter Law Firm, CHTD ("Cutter Law") in contempt and sanctioning each of them for the willful violation of the automatic stay by continuing their post-petition collection efforts against the Debtor. The Motion for Sanctions for Willful Violation of the Automatic Stay and for Attorney's Fees is based on the accompanying Declaration of

Debtor, attached hereto as Exhibit A and incorporated herein by reference, and the below Memorandum of Points and Authorities, in addition to any oral argument at the hearing thereon.

DATED: November 10, 2014.

GOLDSMITH & GUYMON, P.C.

By:

Marjorie A. Guymon, Esq.
Nevada Bar No. 4983
Pro Bono Attorneys for Haydee Jorge

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

On October 9, 2013, Prabakaran filed a Complaint in Nevada State Court against Debtor. *See* Complaint, *Sushil Prabakaran v. Haydee Jorge*, Case No. A-13-689955-C (Nev. 8th J. Dist. Ct. October 9, 2013) attached hereto as Exhibit B and incorporated herein by reference.

On January 31, 2014, Debtor filed for Chapter 7 Bankruptcy with this Court. *See In re Jorge*, Docket No. 14-10694 ABL (Doc 1). The Debtor listed Prabakaran on the creditor matrix and the Schedule F entered January 31, 2014. *See In re Jorge*, Docket No. 14-10694 ABL (Doc 9).

The Debtor also informed Prabakaran that she intended to file for bankruptcy through text messages. *See* Exhibit A.

Prabakaran filed a Request for Default on January 21, 2014. Prabakaran continued collection efforts against Debtor after being informed of her bankruptcy filing in that the hearing on his Request for Default was heard on April 14, 2014. *See* Application for Default Judgment, *Sushil Prabakaran v. Haydee Jorge*, Case No. A-13-689955-C (Nev. 8th J. Dist. Ct. January 21, 2014). As a result, a default judgment was entered against Debtor on April 14, 2014. *See* Default Judgment, *Sushil Prabakaran v. Haydee Jorge*,

1 Case No. A-13-689955-C (Nev. 8th J. Dist. Ct. April 14, 2014) (hereinafter the "State
2 Court Default Judgment"), attached hereto as Exhibit C and incorporated herein by
3 reference

4 Prabakaran and Cutter filed a complaint challenging the dischargeability of the
5 debt on May 1, 2014, utilizing the post bankruptcy filing State Court Default Judgment
6 as grounds for relief.

7 **II. LEGAL ARGUMENT**

8 The automatic stay applies in Chapter 7 cases. Bankruptcy Code § 362 provides:

9 (a) Except as provided in subsection (b) of this section, a petition filed under
10 section 301, 302, or 303 of this title ... operates as a stay, applicable to all
11 entities, of—

12 (1) the commencement or continuance, including the issuance or employee
13 of process, of a judicial, administrative, or other action or proceeding against
14 the debtor that was or could have been commenced before the
15 commencement of the case under this title, or to recover a claim against the
16 debtor that rose before the commencement of the case under this title;

17 (2) the enforcement, against the debtor or against property of the estate, of a
18 judgment obtained before the commencement of the case under this title;

19 (3) any act to obtain possession of property of the estate or of property from
20 the estate or to exercise control over property of the estate;

21 ...
22 (6) any act to collect, assess, or recover a claim against the debtor that arose
23 before the commencement of the case under this title;

24 ...

25 (c) Except as provided in subsections (d), (e), and (f) of this section-

26 The stay of an act against property of the estate under subsection (a) of this
27 section continues until such property is no longer property of the estate; and
28 The stay of any other act under subsection (a) of this section continues until
the earliest of

(A) the time the case is closed;

(B) the time the case is dismissed....

It is undisputed that Haydee Jorge is a debtor who filed a petition for relief
under Title 11 of the United States Code. Thus, it cannot be disputed that the automatic

1 stay was in effect when Prabakaran contacted the Debtor about repayment of a
2 prepetition debt and obtained the State Court Default Judgment against the Debtor.

3 Imposing sanctions under §362(h) for a violation of the automatic stay requires
4 a showing that: 1) the actions taken are in violation of the automatic stay; 2) the
5 violation was willful; and 3) the debtor was injured as a result of the violation. To
6 prove a willful violation of the stay, it is not necessary to show that the creditor had
7 the specific intent to violate the stay. It is sufficient to show that the party knew of the
8 existence of the bankruptcy case and that the creditor's actions were intentional. A
9 violation of the automatic stay is willful when "[t]here is ample evidence in the record
10 to support the conclusion that [the creditor] knew of the pending petition and
11 intentionally attempted to [continue collection procedures] in spite of it." *In re*
12 *Hamrick*, 175 B.R. 890, 892 (W.D.N.C. 1994).

13 Courts have held that phone calls by a creditor to a debtor regarding a prepetition
14 debt may constitute a willful violation of the automatic stay. *In re Perviz*, 302 B.R. 357
15 (Bankr. N.D. Ohio 2003) because such actions violate the two purposes of the stay: (1) to
16 facilitate an organized liquidation of the estate and; (2) to provide the debtor with relief
17 from collection actions. *Id* (citing *United States v. Nicolet, Inc.*, 857 F.2d 202, 207 (3rd
18 Cir.1988)). Such acts violate §362(a)(6) "if their purpose is aimed at collecting a prepetition
19 debt." *Id*. In this case, Prabakaran sent text messages to the Debtor with the express purpose
20 of eliciting payments on the prepetition debt. While the court in *In re Perviz* did not
21 contemplate text messages, their similarity to phone calls and their underlying motivation
22 makes them consistent with the ruling.

23 Courts have overwhelmingly and consistently held that a creditor's failure to
24 halt collection proceedings after a petition is filed violates the automatic stay. In *In re*
25 *Banks*, 253 B.R. 25 (Bankr.E.D.Mich.2000), this Court stated: Based on [the] language
26 of § 362(a)(1), many courts have emphasized the obligation incumbent upon creditors
27 to take the necessary steps to halt or reverse any pending State Court actions or other
28 collection efforts commenced prior to the filing of a bankruptcy petition, including

1 garnishment of wages, repossession of an automobile, foreclosure of a mortgage or a
2 judgment lien and, thereby, maintain, or restore, the status quo as it existed at the time
3 of the filing of the bankruptcy petition. After an automatic stay is in place, certain legal
4 actions may constitute willful violations under §362(a). In the present case, the Debtor filed
5 for bankruptcy on January 31, 2014 and the State Court Default Judgment was entered
6 against the Debtor on April 14, 2014. The excessive amount of time separating the two
7 actions highlights the willfulness of the violation. Prabakaran and his council had over three
8 months to refrain from taking action or make an effort to stop the action. In the instant
9 matter, Prabakaran and Cutter have interfered in the bankruptcy process by entering a
10 default judgment and then attempting to enforce it through Prabakaran's complaint
11 objecting to the Debtor's discharge. Prabakaran and his counsel have engaged in
12 repeated and blatant affirmative actions to collect a prepetition debt in direct violation
13 of the automatic stay.

14 The responsibility to cease actions, as those discussed above, is the burden of
15 the creditor and his counsel. This responsibility is placed on the creditor and not the
16 debtor . . . because "[t]o place the onus on the debtor . . . to take affirmative legal steps
17 to recover property seized in violation of the stay would subject the debtor to the
18 financial pressures the automatic stay was designed to temporarily abate, and render
19 the contemplated breathing spell from his creditors illusory." *Id.* at 30 (quoting
20 *Ledford v. Tiedge (In re Sams)*, 106 B.R. 485, 490 (Bankr.S.D.Ohio 1989)). *See also*
21 *Sucre v. MIC Leasing Corp. (In re Sucre)*, 226 B.R. 340, 347 (Bankr.S.D.N.Y.1998)
22 ("[U]pon receiving actual notice of the commencement of a bankruptcy case, a creditor
23 has an affirmative duty under § 362 to take the necessary steps to discontinue its
24 collection activities against the debtor."); *Mitchell Const. Co., Inc. v. Smith (In re*
25 *Smith)*, 180 B.R. 311, 319 (Bankr.N.D.Ga.1995) ("When a creditor receives [notice of
26 the bankruptcy], the burden is then on the creditor to assure that the automatic stay is
27 not violated or, if it has been violated prior to receipt of actual notice, the burden is on
28 the creditor to reverse any such action taken in violation of the stay."); *Mitchell v.*

1 *Quality Plant Serv., Inc. (In re Mitchell)*, 66 B.R. 73, 75 (Bankr.S.D.Ohio 1986) ("If one is
 2 enjoined from continuing a judicial proceeding against the debtor, one is obliged to
 3 discontinue it."); *O'Connor v. Methodist Hospital of Jonesboro, Inc. (In re O'Connor)*,
 4 42 B.R. 390, 392 (Bankr.E.D.Ark.1984) ("At whatever stage the garnishment is, the
 5 creditor's attorney must do everything he can to halt the proceeding.") *In re McCall-*
 6 *Pruitt*, 281 B.R. 910, 911-2 (Bankr. E.D. Mich. 2002); *In re Pulliam*, 262 B.R. 539, 544
 7 (Bankr. D. Kan. 2001) (same); *In re Pinkstaff*, 974 F.2d 113, 114-5 (9th Cir. 1992).
 8 Consistent with the plain and unambiguous meaning of the statute, and consonant
 9 with Congressional intent, we hold that §362(a)(1) imposes an affirmative duty to
 10 discontinue post-petition collection actions. *Eskanos & Adler, P.C. v. Leetien*, 309 F.3d
 11 1210, 1215 (9th Cir. 2002). *See also, In re Del Mission, Ltd.*, 98 F.3d 1147, 1151 (9th Cir.
 12 1996) (holding that the knowing retention of estate property violates the automatic
 13 stay).

14 Since the Debtor has to bring this Motion for violation of the automatic stay, the
 15 Debtor is entitled to recover its damages, attorneys' fees and costs. *In re Pace*, 67 F.3d
 16 187, 193 (9th Cir. 1995). There is no legitimate reason for Prabakaran and his counsel
 17 to make post-petition requests for payment or obtain the State Court Default Judgment
 18 against the Debtor. As an ordinary rule, creditors who are unsure if the stay applies to
 19 them should assume the stay *is* applicable and seek appropriate relief pursuant to 11
 20 U.S.C. 362(f). 2 Collier on Bankruptcy ¶ 362.04[4] (Lawrence P. King ed., 15th ed.
 21 1992). In the present case, Prabakaran and Cutter took affirmative steps by
 22 proceeding with the hearing and obtaining the State Court Default Judgment and
 23 ignored the automatic stay. This type of blatant disregard to the authority set forth in
 24 the Bankruptcy Code cannot and should not be tolerated.

25 CONCLUSION

26 Wherefore, Sushil Prabakaran, Nadin Cutter and the Law Offices of Nadin Cutter
 27 should be held in contempt for willfully violating the automatic stay. Sushil
 28

1 Prabakaran, Nadin Cutter and the Law Offices of Nadin Cutter should be enjoined from
2 any further collection efforts in state court. The sanctions awarded should include an
3 order requiring the Sushil Prabakaran, Nadin Cutter and the Law Offices of Nadin
4 Cutter to obtain a state court order setting aside the State Court Default Judgment, an
5 order from this Court finding the State Court Default Judgment void, and awarding
6 Debtor's counsel fees and costs for bringing this motion. Additionally, Debtor should
7 be awarded punitive damages.

8 Attached as Exhibit D is a letter sent to counsel for the Plaintiff suggesting that
9 she take steps to remedy the violation in order to avoid this motion. The letter went
10 unanswered.
11

12 DATED: November 10, 2014.
13

14 **GOLDSMITH & GUYMON, P.C.**

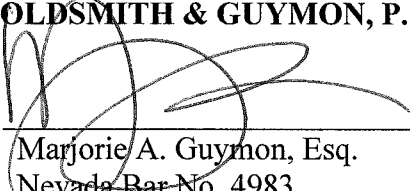
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16 _____
17 Marjorie A. Guymon, Esq.
18 Nevada Bar No. 4983
19 2055 Village Center Circle
20 Las Vegas, Nevada 89134
21 Pro Bono Attorney for Debtor
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EXHIBIT A

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Pro Bono Attorneys for Haydee Jorge

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF NEVADA**

10 In re:) BK-S 14-10694 ABL
Haydee Jorge,) Chapter 7
11)
12 Debtor.)
13 _____)
14 Sushil Prabakaran,)
Plaintiff) Adv. No.14-01080-ABL
15 vs.)
16 Haydee Jorge,)
17 Defendant.)
18 _____)

19 **DECLARATION OF HAYDEE JORGE IN SUPPORT OF**
20 **MOTION FOR SANCTIONS FOR WILLFUL VIOLATION**
OF THE AUTOMATIC STAY AND FOR ATTORNEY'S FEES

21 Haydee Jorge, under penalties of perjury, hereby declares as follows:

- 22 1. I am over the age of 18 and am otherwise competent to testify before this Court.
23 2. On or around October of 2013, Plaintiff filed a complaint against me in Nevada State Court.
24 3. Due to ongoing financial issues, I retained Caleb M. Zobrist, Esq., and filed for bankruptcy
25 in January of 2014. Plaintiff was listed as a creditor in my bankruptcy petition.
26 4. I had also informed Plaintiff that I had to file for bankruptcy through text messages.
27 5. Despite this, on April 14, 2014, the Nevada State Court, at the request of Plaintiff, entered
28 a default judgment against me.

6. On May 1, 2014, Plaintiff filed a Complaint Objecting to Dischargeability of Indebtedness (11 U.S.C. § 523) against me with this Court.

7. My bankruptcy counsel, Caleb M. Zobrist, Esq., quoted me a \$5,000 fee to represent me in the adversary matter.

8. I was unable to afford that amount and did not know how to respond to Plaintiff's Complaint.

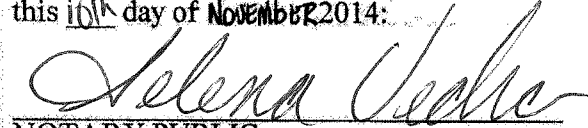
9. Further your affiant sayeth naught.

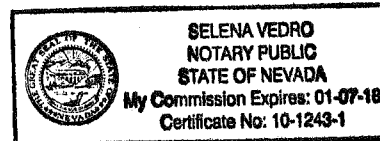
I declare under penalty of perjury that the foregoing is true and correct to the best of my own personal knowledge, except for those statements made upon information and belief, and as to those statements, I believe them to be true.

DATED: November 10, 2014.


Haydee Jorge


SUBSCRIBED AND SWORN TO before me,
a Notary Public, in said County and State,
this 10th day of November 2014:


NOTARY PUBLIC



Submitted by:

GOLDSMITH & GUYMON, P.C.

By: 
Marjorie A. Guymon, Esq.
Nevada Bar No. 4983
Pro Bono Attorneys for Haydee Jorge

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EXHIBIT B

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COMP

NADIN CUTTER, ESQ.

Nevada Bar No.: 11548

CUTTER LAW FIRM, CHTD.

6787 W. Tropicana Avenue

Suites 268 & 270

Las Vegas, Nevada 89103

Tel: (702) 800-6525

Fax: (702) 800-6527

Attorney for Plaintiff Sushil Prabakaran

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DISTRICT COURT

CLARK COUNTY NEVADA


CLERK OF THE COURT

SUSHIL PRABAKARAN, an individual,

Plaintiff,

vs.

HAYDEE M. JORGE, an individual, DOES I
through X, and ROE CORPORATIONS I
through XX,

Defendant.

COMPLAINT

Case No. A - 13 - 689955 - C

Dept No. XII

COMPLAINT

COMES NOW, Plaintiff SUSHIL PRABAKARAN, an individual, by and through his attorney of record NADIN CUTTER, ESQ. of CUTTER LAW FIRM, CHTD., who hereby brings forth the instant Complaint as and against Defendant HAYDEE M. JORGE, an individual, DOES I through X, and ROE CORPORATIONS I through XX, and now alleges as follows:

GENERAL ALLEGATIONS

1. At all relevant times herein, Plaintiff SUSHIL PRABAKARAN ("Plaintiff") was and currently is a resident of Clark County, Nevada.

2. At all relevant times herein, Defendant HAYDEE M. JORGE ("JORGE") was and, based on information and belief, currently is a resident of Clark County, Nevada.

3. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants named herein as DOES I through X, inclusive and ROE CORPORATIONS I through XX, inclusive are unknown to Plaintiff, who therefore, sues said Defendants by said fictitious names; Plaintiff is informed and believes and thereon alleges that each Defendant designated herein as DOES or ROE CORPORATIONS was negligent or responsible in some manner for the events and happenings which proximately caused damages to Plaintiff as herein alleged. Plaintiff will ask leave to amend the instant Complaint to insert the true names and capacities of DOES I through X and ROE CORPORATIONS I through X when the same have been ascertained.

FACTUAL BACKGROUND

4. On or before May 3, 2012, JORGE asked Plaintiff to co-sign on loans for medical procedures, specifically plastic surgery, she intended to have completed.

5. Initially Plaintiff agreed to do so because JORGE assured him he would only be a co-signor and she would prepare the whole loan application for his signature.

6. JORGE prepared the application and told Plaintiff he was only a co-signor.

7. JORGE committed fraud by telling Plaintiff he was a co-signor, when in fact, JORGE prepared the application to read that Plaintiff was solely responsible for JORGE's medical loan debt for JORGE's plastic surgery.

1 8. JORGE's fraud was not revealed to Plaintiff until much later when the loan
2 company contacted him and informed he was not a co-signor whatsoever.

3 9. It was then apparent to Plaintiff that JORGE completely lied to him.

4 10. In the interim, Plaintiff took steps to protect himself by having JORGE execute a
5 Promissory Note that he fully anticipated JORGE to pay as agreed therein.

6 11. Plaintiff and JORGE agreed JORGE would execute a Promissory Note to
7 commemorate this agreement between them.

8 12. On May 3, 2012, JORGE signed a Promissory Note memorializing the
9 agreement between Plaintiff and JORGE. See Promissory Note, attached as **Exhibit "A"**.

10 13. Pursuant to said Promissory Note, JORGE borrowed a total sum of twenty-
11 thousand five-hundred eighty-seven dollars and thirty cents (\$20,587.30) for medical expenses
12 and was required to make monthly installment payments of six-hundred dollars (\$600.00). See
13 **Exhibit "A"**.

14 14. Pursuant to said Promissory Note, under no circumstances is Plaintiff
15 responsible for repayment of the money borrowed for JORGE's medical expenses. See **Exhibit**
16 **"A"**.

17 15. As of today, JORGE has only paid Plaintiff a total of five-hundred dollars
18 (\$500.00) in June, 2012.

19 16. JORGE defaulted in her payment plan with Plaintiff and has since become quite
20 unresponsive to Plaintiff's requests for repayment.

21 17. As a result of JORGE's failure to perform as promised in the Promissory Note,
22 Plaintiff has been *forced* to make payments on JORGE's medical debt in order to try and protect
23 his own credit.
24
25

18. As a result of JORGE's failure to perform as promised in the Promissory Note, Plaintiff has struggled financially while paying for JORGE's medical debt.

19. Pursuant to said Promissory Note, JORGE was required to promptly inform Plaintiff of any change in address or name.

20. Plaintiff has repeatedly attempted to get JORGE to pay as she promised in said Promissory Note, but all attempts to do so have fallen on deaf ears. Recently, JORGE has completely evaded contact with Plaintiff.

21. Pursuant to said Promissory Note, JORGE is required to pay Plaintiff's court costs, collection agency costs, and attorney's fees in the event that Plaintiff is forced to resort to legal action to enforce said Promissory Note. See Exhibit "A".

22. As a result of her failure to perform as promised in the Promissory Note, JORGE has forced the Plaintiff to hire counsel and to incur attorney's fees and costs in pursuit of the funds that he is contractually entitled to.

FIRST CLAIM FOR RELIEF
(Breach of Contract)

23. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs of this Complaint and incorporates each as though fully set forth therein.

24. Plaintiff and JORGE entered into a valid legal contract on May 3, 2012 when JORGE signed the Promissory Note. See Exhibit "A".

25. Plaintiff fully performed his obligations under the contract.

26. JORGE breached the contract by failing to make the required six-hundred dollar (\$600.00) monthly installment payments as promised in the Promissory Note.

1 27. JORGE breached the contract by forcing Plaintiff to be responsible for
2 repayment of the medical debt because she has paid Plaintiff a total of five-hundred dollars
3 (\$500.00) since signing the Promissory Note.

4 28. JORGE breached the contract by failing to promptly inform Plaintiff of her new
5 address as promised in the Promissory Note.

6 29. JORGE breached the contract by failing to be responsible for the repayment of
7 the money as promised in the Promissory Note.

8 30. Plaintiff has suffered damages in excess of ten-thousand dollars (\$10,000.00) as
9 a result of JORGE's multiple breaches.

10 31. That it has been necessary for the Plaintiff to retain the services of legal counsel
11 for which the Plaintiff is entitled to recover such costs and expenses from.

12 **SECOND CLAIM FOR RELIEF**
13 **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

14 32. Plaintiff repeats and realleges each and every allegation contained in the above
15 paragraphs of this Complaint and incorporates each as though fully set forth therein.

16 33. Plaintiff and JORGE were parties to a contract evidenced by the Promissory
17 Note signed by JORGE on May 3, 2012. See Exhibit "A".

18 34. JORGE owed Plaintiff a duty of good faith and fair dealing as all contracts
19 entered into in Nevada impose a duty of good faith and fair dealing on the parties.

20 35. JORGE breached her duty of good faith and fair dealing by performing in a
21 manner that is unfaithful to the purpose of the contract by failing to make monthly installment
22 payments of six-hundred dollars (\$600.00) as was promised in the Promissory Note.
23
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1 36. JORGE breached her duty of good faith and fair dealing by performing in a
2 manner that is unfaithful to the purpose of the contract by only making a total of five-hundred
3 dollars (\$500.00) worth of payments since signing the Promissory Note.

4 37. Plaintiff's justified expectations of JORGE paying for her own medical debt
5 have been denied by JORGE's breaches of her duty of good faith and fair dealing and Plaintiff
6 has suffered damages in excess of ten-thousand dollars (\$10,000.00)

7 38. That it has been necessary for the Plaintiff to retain the services of legal counsel
8 for which the Plaintiff is entitled to recover such costs and expenses from.

9
10 **THIRD CLAIM FOR RELIEF**
11 **(Unjust Enrichment)**

12 39. Plaintiff repeats and realleges each and every allegation contained in the above
13 paragraphs of this Complaint and incorporates each as though fully set forth therein.

14 40. JORGE has unjustly retained the full benefit of the medical procedures financed
15 by the loans referenced in the Promissory Note.

16 41. JORGE has completely failed to perform as promised in said Promissory Note.

17 42. JORGE's retention of the benefits of the Promissory Note goes against
18 fundamental principles of justice or equity and good conscience.

19 43. JORGE has been unjustly enriched at Plaintiff's expense and Plaintiff has been
20 damaged in an amount exceeding ten-thousand dollars (\$10,000.00)

21 44. That it has been necessary for the Plaintiff to retain the services of legal counsel
22 for which the Plaintiff is entitled to recover such costs and expenses from.

23 **FOURTH CLAIM FOR RELIEF**
24 **(Fraud)**

25 45. Plaintiff repeats and realleges each and every allegation contained in the above
paragraphs of this Complaint and incorporates each as though fully set forth therein.

1 46. By convincing Plaintiff he was only a co-signor to her medical debt and by falsely
2 preparing the loan application, JORGE made multiple false representations to Plaintiff.

3 47. By signing a Promissory Note with a repayment plan, JORGE made further false
4 representations to Plaintiff.

5 48. JORGE knew and believed her representations to Plaintiff were false.

6 49. JORGE had an insufficient basis of information for making these representations
7 to Plaintiff.

8 50. JORGE intended to induce Plaintiff to act to co-sign and/or solely pay for
9 JORGE's medical debt based on her fraudulent misrepresentations to Plaintiff.

10 51. JORGE intended to induce Plaintiff into believing she would repay Plaintiff
11 pursuant to the terms of the Promissory Note and instead, she breached said agreement as well.

12 52. Plaintiff justifiably relied on JORGE's multiple false representations.

13 53. JORGE has been unjustly enriched at Plaintiff's expense and Plaintiff has been
14 damaged in an amount exceeding ten-thousand dollars (\$10,000.00)

15 54. That it has been necessary for the Plaintiff to retain the services of legal counsel
16 for which the Plaintiff is entitled to recover such costs and expenses from.

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1 WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests that this Honorable
2 Court enter a judgment against JORGE as follows:

- 3 1. For compensatory and general damages in an amount in excess of ten-
4 thousand dollars (\$10,000.00);
5 2. For an award of attorney's fees and costs of suit; and
6 3. For such other and further relief as the Court may deem just and proper.

7 DATED this 9th day of October, 2013.

8
9
10 Respectfully submitted by:

11 CUTTER LAW FIRM, CHTD.

12
13 
14 NADIN J. CUTTER, ESQ.

15 Nevada Bar No.: 11548

16 CUTTER LAW FIRM, CHTD.

17 6787 West Tropicana, Suite 268

18 Las Vegas, Nevada 89103

19 Office: (702) 800-6525

20 Facsimile: (702) 800-6527

21 Attorney for Sushil Prabakaran
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Exhibit "A"

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Exhibit "A"

PROMISSORY NOTE

From:

Name: Haydee M. Jorge
Address: 211 Lynbrook street
Henderson, NV 89012

Date: May 3, 2012

SSN: 530-11-7253
Drivers License # 2101223169
Email: hjorgeys@gmail.com
Phone: 7028506994

To:

Sushil Prabakaran
7209 Daintree Ct,
Las Vegas, NV 89113

I hereby certify that the entire sum of money borrowed with the GE Capital Retail Bank Account # 6019 1823 2266 8577, \$8,800 borrowed through Cit Credit Card # 5466 1600 7763 2988 and Sushil Prabakaran's personal fund of \$550 are for my medical expenses and I am fully responsible for repayment of this money along with the interest.

I understand that as of this date (May 3, 2012) the total sum stands at \$20,587.30 with a monthly installment of \$600. I also understand that this may go up depending on the late payment fees, interest rate changes and other unexpected charges. I would be fully responsible for all the payments in this account.

Under no circumstances Sushil Prabakaran is responsible for repayment of this money or any other charges incurred in these accounts pertaining to my medical procedures.

I understand that I must promptly inform Sushil Prabakaran of any change in name or address.

If Sushil Prabakaran prevails in a lawsuit to collect on this note, I will pay his court costs, collection agency costs, and attorney's fees in an amount the court finds to be reasonable.

In any unforeseen event (death or disability), the money can be recovered by selling my properties.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Haydee M. Jorge', with a date '5/3/12' written to the right of the signature.

(Haydee M. Jorge)

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Exhibit "E"

NEDJ

NADIN CUTTER, ESQ.

Nevada Bar No.: 11548

CUTTER LAW FIRM, CHTD.

6787 W. Tropicana Avenue

Suites 268 & 270

Las Vegas, Nevada 89103

Tel: (702) 800-6525

Fax: (702) 800-6527

Attorney for Plaintiff Sushil Prabakaran

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY NEVADA

SUSHIL PRABAKARAN, an individual,

Plaintiff,

vs.

HAYDEE M. JORGE, an individual, DOES I
through X, and ROE CORPORATIONS I
through XX,

Defendant.

**NOTICE OF ENTRY OF DEFAULT
JUDGMENT**

Case No. A-13-689955-C

Dept. No. XII

PLEASE TAKE NOTICE that on 14th day of April, 2014, a Default Judgment was duly
entered. A true and correct copy is attached hereto as Exhibit A.

DATED this 14th day of April, 2014.

CUTTER LAW FIRM, CHTD.


NADIN CUTTER, ESQ.

Nevada Bar No.: 11548

6787 W. Tropicana Avenue

Suites 268 & 270

Las Vegas, Nevada 89103

Tel: (702) 800-6525

Fax: (702) 800-6527

Attorney for Plaintiff Sushil Prabakaran

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Exhibit A

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CLERK OF THE COURT

JUDG

NADIN CUTTER, ESQ.

Nevada Bar No.: 11548

CUTTER LAW FIRM, CHTD.

6787 W. Tropicana Avenue

Suites 268 & 270

Las Vegas, Nevada 89103

Tel: (702) 800-6525

Fax: (702) 800-6527

Attorney for Plaintiff Sushil Prabakaran

DISTRICT COURT

CLARK COUNTY NEVADA

SUSHIL PRABAKARAN, an individual,

Plaintiff,

vs.

HAYDEE M. JORGE, an individual, DOES I
through X, and ROE CORPORATIONS I
through XX,

Defendant.

Case No.: A-13-689955-C

Dept No.: XII

DEFAULT JUDGMENT

DEFAULT JUDGMENT

Defendant HAYDEE JORDGE having been served with the (1) Summons and (2) Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended; the Default of Defendant HAYDE JORGE having been entered for failure to answer or otherwise defend as to the Complaint filed on behalf of Plaintiff; it appearing that Defendant is not in the military service of the United States nor is she an infant

or incompetent person; and an Application for Default Judgment having been duly made by Plaintiff for Judgment against Defendant HAYDE JORGE in accordance with the prayer and the causes of action in the Complaint and the Affidavits on file herein, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff is awarded Judgment against Defendant HAYDE JORGE in the principal sum of \$20,087.30, for costs in the amount of \$378.62, for post-service interest at the rate of 5.25% per NRS 99.040, and for reasonable attorney's fees as permitted by contract in the Promissory Note in the amount of \$ 5,000 -, for a total judgment in the amount of \$ 25,465⁹², plus post-judgment interest at the appropriate legal rate per year.


IT IS HEREBY ORDERED.

DATED this 14 day of April, 2014.


DISTRICT COURT JUDGE

Respectfully submitted by:

CUTTER LAW FIRM, CHTD.


NADIN J. CUTTER, ESQ.
Nevada Bar No.: 11548
6787 West Tropicana Avenue
Suites 268 & 270
Las Vegas, Nevada 89103
Telephone: (702) 800-6525
Facsimile: (702) 800-6527
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CUTTER LAW FIRM, CHTD.
and that on this day I personally served a true and correct copy of the attached DEFAULT
JUDGMENT by:

 X U.S. Mail
 Facsimile
 Personal Service
 Messenger Service

To the following:

Haydee M. Jorge
3196 South Maryland Parkway #309
Las Vegas, Nevada 89169

DATED this 14th day of April, 2014.


Employee of CUTTER LAW FIRM, CHTD.

CERTIFICATE OF SERVICE

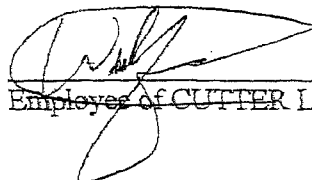
Pursuant to NRCP 5(b), I certify that I am an employee of CUTTER LAW FIRM, CHTD. and that on this day I personally served a true and correct copy of the attached NOTICE OF ENTRY OF DEFAULT JUDGMENT by:

 X U.S. Mail
 Facsimile
 Personal Service
 Messenger Service

To the following:

Haydee M. Jorge
3196 South Maryland Parkway #309
Las Vegas, Nevada 89169

DATED this 14th day of April, 2014.



Employee of CUTTER LAW FIRM, CHTD.

CERTIFICATE OF SERVICE

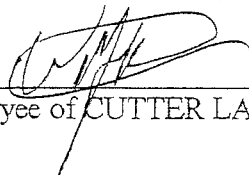
Pursuant to NRCP 5(b), I certify that I am an employee of CUTTER LAW FIRM, CHTD. and that on this day I personally served a true and correct copy of the attached *Motion for Default Judgment* by:

☒ U.S. Mail
☐ Facsimile
☐ Personal Service
☐ Electronic Service/Correspondence

To the following:

Haydee Jorge
6515 White Tiger Court
Las Vegas, NV 89130

DATED this 9th day of September, 2014



Employee of CUTTER LAW FIRM, CHTD.

EXHIBIT C

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NEDJ

NADIN CUTTER, ESQ.

Nevada Bar No.: 11548

CUTTER LAW FIRM, CHTD.

6787 W. Tropicana Avenue

Suites 268 & 270

Las Vegas, Nevada 89103

Tel: (702) 800-6525

Fax: (702) 800-6527

Attorney for Plaintiff Sushil Prabakaran

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY NEVADA

SUSHIL PRABAKARAN, an individual,

Plaintiff,

vs.

HAYDEE M. JORGE, an individual, DOES I
through X, and ROE CORPORATIONS I
through XX,

Defendant.

**NOTICE OF ENTRY OF DEFAULT
JUDGMENT**

Case No. A-13-689955-C
Dept. No. XII

PLEASE TAKE NOTICE that on 14th day of April, 2014, a Default Judgment was duly
entered. A true and correct copy is attached hereto as Exhibit A.

DATED this 14th day of April, 2014.

CUTTER LAW FIRM, CHTD.


NADIN CUTTER, ESQ.

Nevada Bar No.: 11548

6787 W. Tropicana Avenue

Suites 268 & 270

Las Vegas, Nevada 89103

Tel: (702) 800-6525

Fax: (702) 800-6527

Attorney for Plaintiff Sushil Prabakaran

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Exhibit A

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CLERK OF THE COURT

JUDG

NADIN CUTTER, ESQ.
Nevada Bar No.: 11548
CUTTER LAW FIRM, CHTD.
6787 W. Tropicana Avenue
Suites 268 & 270
Las Vegas, Nevada 89103
Tel: (702) 800-6525
Fax: (702) 800-6527
Attorney for Plaintiff Sushil Prabakaran

DISTRICT COURT

CLARK COUNTY NEVADA

SUSHIL PRABAKARAN, an individual,

Plaintiff,

vs.

HAYDEE M. JORGE, an individual, DOES I
through X, and ROE CORPORATIONS I
through XX,

Defendant.

Case No.: A-13-689955-C

Dept No.: XII

DEFAULT JUDGMENT

DEFAULT JUDGMENT

Defendant HAYDEE JORDGE having been served with the (1) Summons and (2) Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended; the Default of Defendant HAYDE JORGE having been entered for failure to answer or otherwise defend as to the Complaint filed on behalf of Plaintiff; it appearing that Defendant is not in the military service of the United States nor is she an infant

1 or incompetent person; and an Application for Default Judgment having been duly made by
2 Plaintiff for Judgment against Defendant HAYDE JORGE in accordance with the prayer and the
3 causes of action in the Complaint and the Affidavits on file herein, and good cause appearing:

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff is awarded
5 Judgment against Defendant HAYDE JORGE in the principal sum of \$20,087.30, for costs in the
6 amount of \$378.62, for post-service interest at the rate of 5.25% per NRS 99.040, and for
7 reasonable attorney's fees as permitted by contract in the Promissory Note in the amount of
8 \$ 5,000 -, for a total judgment in the amount of \$ 25,465⁹², plus post-
9 judgment interest at the appropriate legal rate per year.


10 IT IS HEREBY ORDERED.

11
12 DATED this 14 day of April, 2014.

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15 DISTRICT COURT JUDGE

16 Respectfully submitted by:

17
18 CUTTER LAW FIRM, CHTD.

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21 NADIN J. CUTTER, ESQ.
22 Nevada Bar No.: 11548
23 6787 West Tropicana Avenue
24 Suites 268 & 270
25 Las Vegas, Nevada 89103
Telephone: (702) 800-6525
Facsimile: (702) 800-6527
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CUTTER LAW FIRM, CHTD.
and that on this day I personally served a true and correct copy of the attached **DEFAULT**
JUDGMENT by:

 X U.S. Mail
 Facsimile
 Personal Service
 Messenger Service

To the following:

Haydee M. Jorge
3196 South Maryland Parkway #309
Las Vegas, Nevada 89169

DATED this 14th day of April, 2014.


Employee of CUTTER LAW FIRM, CHTD.

CERTIFICATE OF SERVICE

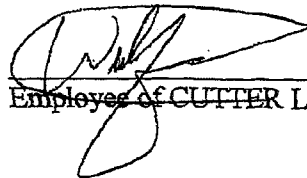
Pursuant to NRCP 5(b), I certify that I am an employee of CUTTER LAW FIRM,
CHTD. and that on this day I personally served a true and correct copy of the attached **NOTICE**
OF ENTRY OF DEFAULT JUDGMENT by:

 X U.S. Mail
 Facsimile
 Personal Service
 Messenger Service

To the following:

Haydee M. Jorge
3196 South Maryland Parkway #309
Las Vegas, Nevada 89169

DATED this 14th day of April, 2014.



Employee of CUTTER LAW FIRM, CHTD.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CUTTER LAW FIRM, CHTD. and that on this day I personally served a true and correct copy of the ***Sushil Prabakaran's Amended Affidavit in Support of Default Judgment*** by:

☒ U.S. Mail
☐ Facsimile
☐ Personal Service
☐ Messenger Service

To the following:

Haydee Jorge
6515 White Tiger Ct.
Las Vegas, NV 89130

DATED this 9TH day of SEPTEMBER, 2014.



Employee of CUTTER LAW FIRM, CHTD.

EXHIBIT D

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GOLDSMITH & GUYMON

A Professional Law Corporation



MAILED
10-31-14

Dara J. Goldsmith, Esq. ★
Marjorie A. Guymon, Esq. ★★
Peter Co, Esq. ★★★
Erin M. Houston, Esq.
Calvin Y. Shin, Esq. ★★★

Also admitted in Arizona, California & Hawaii ★
Also admitted in Utah ★★
Also admitted in California ★★★

October 31, 2014

Nadine J. Cutter, Esq.
Cutter Law Firm, CHTD.
6787 W. Tropicana Ave.
Suites 268 & 270
Las Vegas, NV 89103

Re: Sushil Prabakaran v. Haydee M. Jorge
Our File No. 1464-168

Dear Nadine:

This office has prepared a motion for sanctions for violating the automatic stay due to your obtaining a default judgment against the debtor post bankruptcy filing and subsequently attempting to utilize that judgment in order to obtain a judgment for nondischargeability.

This letter demands that you immediately seek an order from the state court setting aside the default judgment and amend your complaint objecting to the discharge based upon the void default judgment. Should you fail to do so within ten days we will file our motion for sanctions.

Sincerely,

GOLDSMITH & GUYMON, P.C.



Marjorie A. Guymon, Esq.

MAG:cs

W:\MAG\Client Matters\BK Clients\Jorge 1464-168\Cutter Letter 103114.wpd